IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE V.V.S.RAO

WRIT PETITION NO.2229 OF 2004

Between:

Mohammed Azeemuddin, S/o.Mohd. Khairuddin,

Minor, represented by his Guardian and Natural Mother

Fatima Begum, W/o. Mohd. Khairuddin,

R/o.H.No.10-5-32/1/401, Gautam Apartment,

Ahmednagar, Masabtank, Hyderabad.

…PETITIONER

And

1.The Regional Passport Officer,

Secunderabad

2.The Secretary, Ministry of External Affairs,

Central Secretariat, New Delhi

…RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order or direction or a Writ particularly one in the nature of writ of Mandamus directing the respondents herein to correct the date of birth of the

petitioner in passport bearing No.G.945166 as 3.1.1988 instead of 30.11.1988 by issuing a fresh passport on payment of required necessary fee as per law.

Counsel for the Petitioner: MR. ALI FAROOQ

Counsel for the Respondent: SRI A. RAJASEKHAR REDDY

(S.C. FOR CENTRAL GOVT.)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2229 OF 2004

ORDER:

The petitioner is a minor represented by his mother and natural guardian, Ms.Fatima Begum. The petitioner seeks a Writ of Mandamus directing the respondents, namely, the Regional Passport Officer, Secunderabad, Secretary to Government of India in the Ministry of External Affairs to correct the date of birth of petitioner in the passport bearing No.G.945166 as 3.1.1988 instead of 30.11.1988.

The petitioner was given passport on 19.2.1990, which was valid upto

18.2.1995. When he wanted to leave for higher studies to other country, the petitioner realised the mistake that his correct date of birth is 3.1.1988 and not 30.11.1988 as entered in the passport. Therefore, placing reliance on Rule 2(C-I) of the Passports Rules, 1980 petitioner tried to file an application before the first respondent for correction of date of birth. The petitioner also relied on hall-ticket of VII Class Common Examination issued by Madina High School wherein his date of birth was shown as 3.1.1988. But, the latter refused to entertain the application. Therefore, present Writ Petition is filed.

Though interlocutory application is listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard and is being disposed of finally.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport withouTt insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

This case falls under clause (c) of the circular and the petitioner has to approach the Civil Court and obtain appropriate declaration. Liberty is given to petitioner to approach the Civil Court and obtain appropriate declaration regarding the date of birth and then make application to first respondent for correction of date of birth in the passport. In this Writ Petition, no relief can be granted.

The Writ Petition, with the above observations, is disposed of. No costs.

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(V.V.S.RAO, J)

2.9.2004

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To

1.The Regional Passport Officer, The Regional Passport Office

Near Clock Tower,

Secunderabad

2.The Secretary, Ministry of External Affairs,

Central Secretariat, New Delhi

3. 2 CD copies.